

## **REMARKS**

### ***Introduction***

Applicants have amended the claims to recite more clearly and distinctly that which they consider their inventions. These amendments will be discussed below in more detail in conjunction with the arguments against the claim rejections.

It is respectfully submitted that the above amendments are fully supported by the application as filed. It is further respectfully submitted that the above amendments now place the application in condition for allowance, as made clear by the explanation below. Entry and favorable consideration of the amended claims are respectfully requested.

### ***Restriction Requirement***

Applicants hereby affirm the election, without traverse, of Group VI (SEQ ID NO: 6).

### ***Claim Rejection under 35 U.S.C. § 112***

The Office Action rejected claims 50 for lack of enablement or written description under 35 U.S.C. § 112, ¶ 1. Specifically, the Office Action states that even though the deposit of the ZMC2 was made in accordance with the stipulations of the Budapest Treaty, applicants have not agreed that all restrictions imposed by the depositor on the availability to the public of the deposited biological material be irrevocably removed upon the granting of the patent.

Applicants hereby state that, subject to 37 C.F.R. § 1.808 (b), all restrictions imposed by the depositor on the availability to the public of the deposited material will be irrevocably removed upon the granting of the patent.

The Office Action also rejected Claim 52, for the asserted reason that it recites only a heavy chain yet a functional antibody molecule requires a heavy chain and a light chain. While applicants respectfully disagree because the original claim language does not say that the claim antibody is made of only a heavy chain (it depends from Claim 43, and the term "having" is

open-ended), in order to expedite prosecution and advance this application to allowance, applicants have amended the claims, wherein Claim 43 now recites that the claimed antibody molecule comprises an appropriate light chain in addition to a specific heavy chain. Withdrawal of this claim rejection is respectfully requested.

***Claim Rejections under 35 U.S.C. § 102***

The Office Action rejected claims 43-49, 51, and 53-55 as not novel under 35 U.S.C. §102(b) over Sierra-Honigmann (WO 99/59614).

It is respectfully submitted that this rejection has been rendered moot by the claim amendment. As amended, the claims now recite that the antibody comprises a heavy chain of SEQ ID NO: 6, which is not disclosed in the prior art.

***Claim Rejections under 35 U.S.C. § 103***

The Office Action further rejected claims 55-61 as being obvious under 35 U.S.C. § 103 over Ross et al. (U.S. Pat. No. 7,446,183) in view of Sierra-Honigmann.

It is respectfully submitted that this rejection has been rendered moot by the claim amendment. As amended, the claims now recite that the antibody comprises a heavy chain of SEQ ID NO: 6, which is not disclosed in the prior art.

Thus Claim 43, as amended is free of the prior art. As all other claims, as amended, now depend from Claim 43 (directly or indirectly), it is respectfully submitted that all claims are now free of prior art.

Because there are no other claim rejections or objections, applicants respectfully submit that all claims are now in condition for allowance. Applicants earnestly solicit an early indication from the examiner to that effect.

Applicants further respectfully submit that this response is timely by virtue of the concurrently-filed petition for extension of time for two months and the requisite fees.

It is believed that no additional fee is due. However, if any additional fee is due, please debit the fee amount to our Deposit Account No. 504930, from which the undersigned is authorized to draw.

If there should be any questions, please contact the undersigned by telephone at the number below.

Dated: January 19, 2009

Respectfully submitted,

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